

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

JESSIE FRANKLIN TRUITT, III,

Plaintiff,

-vs-

CARL BEAR, et al.,

Defendants.

Case No. CIV-19-581-F

ORDER

On November 20, 2019, United States Magistrate Judge Bernard M. Jones issued a Report and Recommendation, recommending that plaintiff's motions entitled "Preliminary Injunction" and "T.R.O." be denied. Magistrate Judge Jones advised plaintiff of his right to object to the Report and Recommendation by December 11, 2019.

On December 4, 2019, plaintiff filed an "Order to Show Cause for [a] Preliminary Injunction and a Sworn Affidavit Attached." From review, it appears that plaintiff is again seeking entry of a preliminary judgment. The court construes the document as a refiled motion for preliminary judgment.¹

Subsequently, on December 6, 2019, plaintiff filed a "Request & Notice for [an] Ext[e]nsion of Time."² Plaintiff requests the court to either grant a preliminary injunction or grant him an extra 26 weeks of time due to the "B.M.U. Program."

¹ The refiled motion has been referred to Magistrate Judge Jones for ruling. However, the undersigned vacates that referral.

² Plaintiff's "Request & Notice for an Ext[e]nsion of Time" has also been referred to Magistrate Judge Jones for ruling. The undersigned likewise vacates that referral.

Doc. no. 30.³ Plaintiff claims that if his relief is not granted, he will lose his civil rights complaint against defendants because the warden has issued a memo to staff stating that plaintiff is not to have any access to the courts or law library until he finishes the “B.M.U. Program.” Upon review, the court does not construe plaintiff’s “Request & Notice for [an] Ext[en]sion of Time” as a request for extension of time to file an objection to Magistrate Judge Jones’ Report and Recommendation. The Report and Recommendation is not mentioned by plaintiff. It appears to the court that plaintiff is seeking either entry of a preliminary injunction or a six-month stay of his case.

Although plaintiff has not specifically objected to the Report and Recommendation within the time prescribed by Magistrate Judge Jones, the court, in its discretion and in the interests of justice, has conducted a *de novo* review of the Report and Recommendation.⁴ Having done so, the court concurs with the analysis and recommendation of the Magistrate Judge Jones and the court accepts, adopts and affirms the Report and Recommendation in its entirety. And upon review and for the same reasons as stated in the Report and Recommendation, the court finds that plaintiff’s refiled motion for preliminary injunction should be denied.

As to the “Request & Notice for [an] Ext[en]sion of Time,” the court denies the request. The court concludes that the entry of preliminary injunction is not appropriate for the reasons set forth in the Report and Recommendation. With respect to the alternative request for a six-month stay, the court finds that the request should be denied. At the present stage, there appears to be no need for

³ In the Report and Recommendation, Magistrate Judge Jones indicates that plaintiff was placed in the Behavior Health Unit (BHU) at Joseph Harp Correctional Center.

⁴ The court has conducted a *de novo* review in case the court has erred in construing the filings made by plaintiff.

plaintiff to file any legal motion or to file any objection or response to a motion. If a motion, an order or another Report and Recommendation is later filed requiring a response or objection from plaintiff and plaintiff needs an extension of time to file a response or objection due to the “B.M.U. Program,” plaintiff may file a motion for extension of time to file that response or objection. Further, plaintiff’s reason for the requested six-month stay is not substantiated.


Based upon the foregoing, the Report and Recommendation issued by United States Magistrate Judge Bernard M. Jones (doc. no. 28) is **ACCEPTED**, **ADOPTED** and **AFFIRMED** and Plaintiff’s motions entitled “Preliminary Injunction” and “T.R.O.” (doc. nos. 25 and 26) are **DENIED**.

The referral to United States Magistrate Judge Bernard M. Jones of plaintiff’s “Order to Show Cause for [a] Preliminary Injunction and a Sworn Affidavit Attached,” which the court construes as a refiled motion for preliminary injunction (doc. no. 29), is **VACATED**. The refiled motion for preliminary injunction (doc. no. 29), is **DENIED**.

The referral to United States Magistrate Judge Bernard M. Jones of plaintiff’s “Request & Notice for [an] Ext[e]nsion of Time” (doc. no. 30) is **VACATED**. Plaintiff’s “Request & Notice for [an] Ext[e]nsion of Time” (doc. no. 30) is **DENIED**.

This case remains referred to United States Magistrate Judge Bernard M. Jones in accordance with 28 U.S.C. § 636 and this court’s prior order of referral.

IT IS SO ORDERED this 13th day of December, 2019.


STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE